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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/864,003	05/23/2001	Han Qingyuan	00-SM5-408/ATI-0001	1872
7590 04/13/2004 CANTOR COLBURN LLP 55 Griffin Road South Bloomfield, CT 06002			EXAMINER MARKOFF, ALEXANDER	
			ART UNIT	PAPER NUMBER
			1746	
DATE MAILED: 04/13/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/864,003

Applicant(s)

QINGYUAN ET AL.

Examiner

Alexander Markoff

Art Unit

1746

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 March 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☒ Applicant's reply has overcome the following rejection(s): the rejections of claims 10 and 11 made under.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☒ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.


The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.Claim(s) objected to: 3-8.Claim(s) rejected: 1,2 and 10-21.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

ALEXANDER MARKOFF  
PRIMARY EXAMINER

  
Alexander Markoff  
Primary Examiner  
Art Unit: 1746

Continuation of 5. does NOT place the application in condition for allowance because: The request for the reconsideration is not persuasive because the plasma type referenced by Table 1 is not supported by any data or reasoning for the plasmas of the prior art. It is mere applicant's arguments presented in the form of table. The applicants presented no evidence that the plasma of the prior art is oxidizing. The Declaration of Mr. Walfried filed under 37 CFR 1.132 is insufficient to overcome the rejection because it provides no evidence regarding the type of the plasma of the prior art. A statement that "the gas mixture would be considered an oxidizing plasma" is not supported and is not sufficient to overcome the rejection. Moreover, the data presented by the applicants supports the examiner's position. This is because the applicants state that a chemistry comprising 1160 sccm of oxygen and 720 sccm of forming gas (1.86% of hydrogen in oxygen) without water would result in neutral plasma. The data presented in the specification shows that the chemistry comprising 3% of hydrogen in oxygen without water would also produce neutral plasma. The prior art teaches chemistry with 2.44% of hydrogen in oxygen. It means that the plasma of the prior art would be neutral.